



BOARD OF APPEALS
Diane R. Gordon, Co-Chair
Harry Miller, Co-Chair
Bailey S. Silbert

Town of Brookline

Massachusetts

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Patrick J. Ward, Secretary

TOWN OF BROOKLINE
BOARD OF APPEALS
CASE NO. BOA 070049

Petitioners, Lisa and Paul Richards, applied to the Building Department for a permit to do renovations on their property at 79 Wolcott Road. The application was denied and an appeal taken to this Board. The petitioners seek zoning relief to construct additions and renovations to their single-family home.

On August 23, 2007 the Board of Appeals met and determined that the properties affected were those shown on a schedule in accordance with the certification prepared by the Assessors of the Town of Brookline and approved by the Board of Appeals and fixed September 27, 2007 at 7:15 p.m. in Hunneman Hall, Main Library, as the time and place of a hearing on the appeal. Notice of the hearing was mailed to the Petitioners, to the owners of the properties deemed by the Board to be affected as they appeared on the most recent local tax list, to the Planning Board and to all others required by law. Notice of the hearing was published September 6 and 13, 2007 in the Brookline Tab, a newspaper published in Brookline. Copy of said notice is as follows:

TOWN OF BROOKLINE
MASSACHUSETTS
BOARD OF APPEALS
NOTICE OF HEARING

Pursuant to M.G.L., C.39, sections 23A & 23B, the Board of Appeals will conduct a public hearing to discuss the following case:

Petitioner: **RICHARDS, PAUL G and LISA M**
Location of Premises: **79 WOLCOTT RD BRKL**
Date of Hearing: **09/27/2007**
Time of Hearing: **07:15 p.m.**
Place of Hearing: **Main Library, Hunneman Hall, 2nd fl.**

A public hearing will be held for a special permit and/or variance from:

- 1) **5.43, Exceptions to Yard and Setback Regulations; Special Permit Required.**
- 2) **5.50, Front Yard Requirements; Variance Required.**
- 3) **5.60, Side Yard Requirements; Variance Required.**
- 4) **8.02.2, Alteration or Extension; Special Permit Required.**
- 5) **5.09.2.j, Design Review; Special Permit Required.**
- 6) **5.22.3.b.1.b; Exceptions to Maximum Floor Area Ratio (FAR) Regulations for Residential Units; Special Permit Required.**

Of the Zoning By-Law to construct additions and renovations per plans at **79 WOLCOTT RD BRKL.**

Said Premise located in a **S-15** District.

Hearings, once opened, may be continued by the Chair to a date and time certain. No further notice will be mailed to abutters or advertised in the TAB. Questions regarding whether a hearing has been continued, or the date and time of any hearing may be directed to the Zoning Administrator at 617-734-2134 or check meeting calendar at: <http://calendars.town.brookline.ma.us/MasterTownCalendar/?FormID=158>.

*The Town of Brookline does not discriminate on the basis of disability in admission to, access to, or operations of its programs, services or activities. Individuals who need auxiliary aids for effective communication in programs and services of the Town of Brookline are invited to make their needs known to the **ADA Coordinator, Stephen Bressler, Town of Brookline, 11 Pierce Street, Brookline, MA 02445. Telephone: (617) 730-2330; TDD (617) 730-2327.***

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Present at the hearing was Chair, Diane Gordon and Board members Bailey Silbert and Larry Kaplan. The homeowners, Paul and Lisa Richards, were present at the hearing and their proposal

was presented through their designer, Alan J. O'Connell of Esoteric Residential Design, 39 Herrick Road, Peabody, MA.

Mr. O'Connell described the residence as a single-family dwelling located in South Brookline, to the southwest of the Putterham Meadows Golf Course. The dwelling is constructed on a steep slope which descends from the street to the rear lot line. Constructed in the Colonial style, the home features a gambrel roof with gabled dormers, aluminum siding, and asphalt shingles. The surrounding neighborhood is largely wooded and consists primarily of single-family dwellings. He said that the petitioners are proposing to construct renovations and additions totaling 579 s.f. to the house at 79 Wolcott Road. In the basement, the petitioners are proposing to construct a 132 s.f. addition which will expand an existing family room. On the first floor, there will be two separate additions. The first addition will be a 160 s.f. office located off the living room at the rear of the house, above the proposed basement addition. The addition will include the installation of three new windows and a new door leading onto the existing rear deck. The second addition on the first floor consists of a 28 s.f. mudroom and closet behind the garage, at the rear of the house. On the second floor, the petitioners are proposing to construct a 287 s.f. addition, which will consist of a sitting room, walk in closet, and master bath. This addition will be constructed on top of the existing garage and cantilevered 3'4" over the rear of the first floor. The roofline of the addition will mirror the existing gambrel roof, and the new dormer on the front of the house will match the three existing gabled dormers on the front of the house. He said all additions will be finished with siding and roofing materials to match those found on the existing structure. Mr. O'Connell said his clients needed relief from design review, floor area ratio, front and side yard requirements and relief because theirs is a pre-existing, non-conforming structure. Mr. O'Connell mentioned that his clients

are proposing counterbalancing amenities to waive side and rear setbacks as required under Section 5.43 of the by-law. He said the counterbalancing amenities would be additional landscaping along the right side of the house, including repair of any disturbance to the existing bushes. As far as additional landscaping, the petitioners will provide additional low, shade-type plants to the right side as well.

The Chair asked whether anyone would like to speak in favor or in opposition to the proposal and no one responded.

Lara Curtis, Planner, described the relief required for the project.

Section 5.09.2.j - Design Review

A special permit is required for any exterior addition for which a special permit is requested under Section 5.22. All of the design standards in paragraph (d) have been met and comments on the most relevant follow:

- a. Preservation of Trees and Landscape – The proposed addition will not result in the loss of trees or shrubs.
- b. Relation of Buildings to Environment – Impacts on abutting properties should be minimal, as existing setbacks will not be changing and the massing of the structure will be consistent to that of neighboring properties.

Section 5.20 – Floor Area Ratio

	Allowed				
	By Right	By Special Permit	Existing	Proposed	Relief
F.A.R	0.25 (100%)	0.3 (120%)	0.22 (88%)	0.29 (114%)	Special Permit*
Floor Area (s.f.)	2,219	2,663	1,959	2,538	-

* Under Section 5.22.3.b.1.b, the Board may allow by special permit an exterior addition up to 120% of the permitted gross floor area so long as the maximum allowed FAR of 120% has not been reached.

Section 5.50 – Front Yard Requirements

Section 5.60 – Side Yard Requirements

Proposed Driveway	Required	Existing	Proposed	Relief
Front Yard Setback	25 feet	15.6 feet	15.6 feet	S.P./Variance**
Side Yard Setback	15 feet	7.5 feet	7.5 feet	S.P./Variance**

** Under Section 5.43, the Board of Appeals may waive yard and setback requirements if a counterbalancing amenity is provided. The applicants have stated they are willing to install landscaping along the side lot line as a counterbalancing amenity.

Section 8.02.2 – Alteration or Extension

A special permit is required to alter or enlarge a pre-existing non-conforming structure. This dwelling is non-conforming with respect to front and side yard setbacks.

Ms. Curtis said that the Planning Board had no objection to the proposed additions for the single-family residence at 79 Wolcott Road. The additions are modest in size, and complement the character and form of the existing dwelling by utilizing a gambrel roof, gabled dormers and windows with similar pane patterns (6/6 and 8/8). Setbacks for the property will not be changing and the increase in massing is minimal, which should not negatively impact abutting properties. Therefore, the Planning Board recommends approval of the plans titled “Richard’s Residence” prepared by Alan J. O’Connell of Esoteric Residential Design, Inc., and last dated 08/27/07, and the site plan, prepared by Bruce Bradford of EMB and last dated 06/21/07, subject to the following conditions:

- 1. Prior to issuance of a building permit, final elevations of the building, indicating exterior materials, shall be submitted to the Assistant Director for Regulatory Planning for review and approval.**
- 2. Prior to issuance of a building permit, a final landscaping plan, showing all counterbalancing amenities, shall be submitted to the Assistant Director for Regulatory Planning for review and approval.**
- 3. Prior to issuance of a building permit, the applicant shall submit to the Zoning Administrator for review and approval for conformance to the Board of Appeals decision: 1) a final site plan, stamped and signed by a registered engineer or land surveyor; 2) final to-scale elevation plans; and 3) evidence that the Board of Appeals decision has been recorded at the Registry of Deeds.**

The Chair then called on Frank Hitchcock representing the Building Department. Mr. Hitchcock described the project for the Board. He said all the relief could be granted by Special Permit. He said relief was needed under **Section 5.09.2.j** because the petitioner requested floor area ratio relief. Mr. Hitchcock said that the Board can grant Floor Area Ratio Relief up to 20% above that which is permitted in the bylaw for exterior additions under **Section 5.22.3.b.1.b.** Relief under **Section 5.43** allows the Board to waive yard and setback requirements if a counterbalancing amenity is provided and because the project is an expansion of a pre-existing non-conformity, the Board may grant relief under **Section 8.02.2** of the bylaw. Mr. Hitchcock said that the Building Department has no objection to the proposal, no objection to the zoning relief that is required and no objection to the conditions recommended by the Planning Board.

The Board, having deliberated on this matter and having considered the foregoing testimony, concludes that is desirable to grant Special Permits under **Sections 5.09.2.j, 5.22.3.b.1.b, 5.43** and **8.02.2** of the Zoning Bylaw. The Board makes the following findings pursuant to **Section 9.05**:

- a. The specific site is an appropriate location for such a use, structure, or condition.
- b. The use as developed will not adversely affect the neighborhood.
- c. There will be no nuisance or serious hazard to vehicles or pedestrians.
- d. Adequate and appropriate facilities will be provided for the proper operation of the proposed use.
- e. The development as proposed will not have a significant adverse effect on the supply of housing available for low and moderate income people.

Therefore, the board voted unanimously to grant all the Special Permit relief with the following conditions:

1. Prior to issuance of a building permit, final elevations of the building, indicating exterior materials, shall be submitted to the Assistant Director for Regulatory Planning for review and approval.
2. Prior to issuance of a building permit, a final landscaping plan, showing all counterbalancing amenities, shall be submitted to the Assistant Director for Regulatory Planning for review and approval.
3. Prior to issuance of a building permit, the applicant shall submit to the Zoning Administrator for review and approval for conformance to the Board of Appeals decision: 1) a final site plan, stamped and signed by a registered engineer or land surveyor; 2) final to-scale elevation plans; and 3) evidence that the Board of Appeals decision has been recorded at the Registry of Deeds.

Unanimous Decision of
The Board of Appeals



Diane R. Gordon

Filing Date: October 12, 2007

A True Copy:

ATTEST



Patrick J. Ward

Clerk, Board of Appeals

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